

**STATEMENT BY
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**TO THE SUBCOMMITTEE ON THE FEDERAL
WORKFORCE AND AGENCY ORGANIZATION
COMMITTEE ON
GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES**

**HEARING ON
“RETIREEES RETURNING TO THE RESCUE:
RE-EMPLOYING ANNUITANTS
IN TIMES OF NATIONAL NEED”**

JULY 25, 2006

Mr. Chairman and members of the subcommittee, I am Charles L. Fallis, President of NARFE, the National Active and Retired Federal Employees Association. I appreciate the opportunity to express our views on the re-employment of federal annuitants and on proposals to clarify a law that presently reduces the retirement annuities of certain federal retirees and employees with part-time service.

NARFE has long held that federal retirees who are interested in returning to government service ought to be able to receive the full salary of their new job without any offset as the result of the retirement annuity they earned through prior federal service.

NARFE's annuitant members count among our rank agency managers and line supervisors, security specialists, computer programmers, air traffic controllers and law enforcement personnel. Annuitants boast rare talents and vast experience. At a time when the nation faces critical challenges and our federal government faces an unprecedented brain drain, we should not ignore this pool of ready, willing, able and proud men and women who have dedicated their careers to service to our nation. For those capable, and those willing to give more in answer to this call, laws, regulations and the manner in which they are applied must not be an impediment to accessing our talents.

Under current law, the wages of those re-employed annuitants are generally offset by the amount of the annuity. However, the Office of Personnel Management (OPM) and certain federal agencies have the authority to allow some returning retirees to keep both sources of earned

income “in positions for which there is exceptional difficulty in recruiting and retaining a qualified employee” and in jobs critical to the accomplishment of the agency’s mission.

The requirements of the “war on terror,” homeland security and other responsibilities have created such staffing difficulties, particularly in light of the unique expertise and experience required for these jobs. Indeed, while our popular culture frequently creates the misperception that government workers are uncaring clock-punchers, the reality of our current skill shortages demonstrates the critical roles played by civilian employees of the government, thousands of whom are working alongside their uniformed colleagues in locations like Iraq and Afghanistan.

Re-employed annuitants who have been granted waivers against the dual compensation prohibition are usually pleased with OPM’s or their agency’s decision. However, such individuals sometimes express their dissatisfaction to us upon learning that they will not receive any additional retirement credit as a result of their re-employment.

Moreover, retirees who do not receive a waiver tell us that they would not consider re-employment since the offset of their federal pay, by the amount of the annuity, would make their re-employed salary too low. Absent a waiver, some would be working for free, as a practical manner, if their annuity was the same or higher than jobs that pay a lower salary. This has been sometimes true for retired federal law enforcement officers who are interested in airport screener positions with the Transportation Security Administration.

We also sometimes hear that the test for a waiver has not been applied equitably – at least in the specific circumstances they cite. Indeed, the real challenge of recruiting and retaining the best and brightest to federal service is whether the range of available incentives are applied fairly and are not abused.

As you know, many crucial federal workers avoid the red tape of the waiver process altogether by going to work for a government contractor where their federal annuity presents no barrier to being paid full salary at the new job. Beyond the attraction of dual compensation, working for a contractor allows federal retirees to earn more quarters in Social Security-covered employment, in an effort to mitigate the reduction of their Social Security benefits by the unfair and arbitrary Windfall Elimination Provision (WEP). Should the federal government continue to deny itself access to this pool of experienced professionals at these critical times?

Part-Time Inequity

In addition to addressing the issue of re-employing federal annuitants, we are pleased, Mr. Chairman, that you are examining the application of a law that discourages many federal employees from working part-time in the later years of their careers.

Federal annuities are calculated by multiplying the average three highest continuous years of salary, times years of service, by an accrual rate. As a result of the interpretation of a federal budget law [Section 15204 of the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) (P.L. 99-272)], the annuities of many federal employees who worked part time in the

final years of their careers are substantially lower than they should be. This reduction occurs when actual part-time wages received – instead of the full-time equivalency of those earnings -- are used in the calculation to determine the employee's average highest three years of salary. The inequity does not affect employees who began working for the federal government after April 7, 1986 or who have no part-time service after that date.

I offer an example: Susan, employed by the Department of Defense as an Afghan Persian and Pashtu language expert, worked part time during the last three years of her career before retiring in 1990 after 30 years of service. Like most workers, Susan reached her highest salary level (about \$40,000 a year for a full-time worker as a GS-13 in 1988, 1989 and 1990) toward the end of her federal service. However, because her full-time equivalent salary was not used, Susan's annuity would be significantly lower than another GS-13 colleague with fewer years of federal service who did not work part time in the final years on the job.

We believe that thousands of federal employees who chose to make the transition to retirement by working part time were needlessly penalized. Indeed, in some cases, annuities are 20 percent less than what they otherwise would be with proper calculation.

President Bush's fiscal year (FY) 2007 budget recognized this inequity and proposed using full-time equivalent salary to calculate the annuities of future retirees who work part time towards the end of their service. We agree with the administration's recognition that allowing employees to work part time is a proven and successful management tool, particularly for workers near retirement who remain on the job and continue to contribute their skills, talents and experience.

Unfortunately, the administration's proposal falls short. It would leave in place the inequity for current retirees whose annuities have been lowered as a result of the interpretation of the 1986 budget law.

For that reason, NARFE supports Rep. Jim Moran's bill -- H.R. 480 -- which applies the President's proposal to correct the annuities of current affected retirees and survivors. Fairness dictates this change.

H.R. 480 would alleviate any potential administrative complication in several ways. First, it would put the burden on annuitants to identify themselves as eligible for the correction rather than directing OPM to seek them out. Upon enactment, annuitants would have 18 months to apply to OPM for a prospective recalculation of their annuity under the clarified law. H.R. 480 would require that the newly calculated amount become effective only for annuity payments made after the annuitant applied to OPM for application of the corrected law.

NARFE agrees that removing the obstacle that prevents some current federal workers from working part time is particularly important to retaining skilled staff. Still, we feel current workers might be discouraged from federal service if they knew that retirees, who were also penalized, were not, at the very least, partially compensated for the misapplication of this law.

Who wants a job with an employer that treats their workers and retirees unfairly?

VA Part-Time Nurses

Likewise, certain Department of Veterans Affairs (VA) nurses who worked part time have had their annuities unfairly reduced. Before 1986, the VA promised full-time retirement credit for part-time work to their nurses and certain other health care workers who worked unpopular tours of duty, such as nights and weekends. This incentive was intended to help with the nursing shortage and with the VA's recruitment and retention of nurses when more of them were required to satisfy Cold War staffing needs. However, the promise was never implemented. As a result, VA nurses lost the full retirement credit they had been promised for their earlier part-time work.

After years of being denied a promised benefit, legislation was enacted in the 107th Congress that recognized and corrected the inequity imposed on VA health care workers by the 1986 COBRA. The Department of Veterans' Affairs Health Care Programs Enhancement Act of 2001 (PL 107-135), enacted January 23, 2002, changed the way retirement benefits are computed for the nurses and other health care workers who retired on or after the date of enactment, by allowing them the full-time credit for their pre-1986 part-time work. Still, those VA nurses who retired between April 6, 1986 and January 23, 2002 continue to be denied the full retirement credit and resulting annuity dollars for their VA work before 1986.

NARFE urges you, Mr. Chairman, to ensure that any legislation the subcommittee considers to address the part-time retirement computation issue include equity for all VA nurses and, as I

explained previously, fairness for current retirees whose annuity was reduced because of their part-time service.

In conclusion, we commend you for your interest in enabling federal annuitants to continue to make critical contributions to our safety and well-being during this time of national need.

Thank you for the invitation to share our views here today, and thank you for your able leadership of the subcommittee.